

DETAILED ACTION

Response to Amendment

1. The response filed January 25, 2010 is acknowledged.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Election/Restrictions

3. Applicant elected without traverse Invention I, Species A (figs 1-3) in the reply filed on March 28, 2003.
4. Claims 18-33 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Invention and Species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 10.
5. Claims 36-38 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on March 28, 2003.

Claim 36 recites the limitation "a plurality of crimping segments" in line 6 which can only be found in the embodiment of Species C, figures 6-8.

Claims 37 and 38 recite "a lift-adjustment disk arranged between the valve housing and the connecting piece." The entirety of claim 23 recites the same limitation. The reply filed on March 28, 2003 indicated that claim 23 is not readable on the elected species.

Drawings

6. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "spring element" recited in claim 17 (in the embodiment of elected Species A); the "internal combustion engine" recited in claims 15, 34, 35 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

7. Claims 14-17, 34, 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Wildeson et al. (5,775,600).

Wildeson discloses a fuel injector comprising:

- a valve needle 50;
- a fixed valve seat surface 56;
- a valve-closure member 52;
- a connecting piece 60;
- a valve housing 42;
- a spring element 97;
- wherein:

- the connecting piece 60 includes at least one notch 102;

- the valve housing 42 includes a material budge 108, 108A.

The recitation “the crimped connection is formed by...” renders the claim a product-by-process claim. Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process. MPEP 2113.

Response to Arguments

8. Applicant's arguments filed January 25, 2010 have been fully considered but they are not persuasive.

Regarding applicant's argument directed to the drawing objections, applicant's argument has been addressed in the final Office action mailed on June 11, 2009

Applicant argues that that claims 14 and 17 have been amended to recite "the crimped connection is formed by a material bulge shifted inwards in a radial direction from an external surface of the valve housing and all the way into the notch to generate an axial stress between the valve housing and the connecting piece." The recitation "the crimped connection is formed by..." renders the claim a product-by-process claim. Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process. MPEP 2113.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (571) 272-4905. The examiner can normally be reached on Monday - Friday, 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on (571) 272-1184. The fax phone numbers for the organization where this application or proceeding is assigned are (571) 273-8300 for regular communications and (571) 273-8300 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3750.

/Christopher S. Kim/
Primary Examiner, Art Unit 3752

CK
April 8, 2010